

REMARKS/ARGUMENTS

Four claims remain pending in the application: Claims 1-3 and 14. Claims 1-3 and 14 have been amended herein. Support for the substantive amendments may be found at least at Figure 1, paragraph 3 on page 2, and paragraph 1 on page 21 of the application as originally filed.

Written Statement Regarding Substance of 5/15/06 Interview per 37 CFR 1.133(b)

Applicant appreciates the opportunity to discuss the rejection under 35 USC 102(b) with Examiner Swiatek in the telephone interview that occurred on May 15, 2006, at 12:30 p.m. EST. Those participating in the interview included Examiner Swiatek, Thomas Lebens, and the undersigned. In accordance with the requirements of 37 CFR 1.133(b), Applicant provides the following written statement of the reasons presented at the interview as warranting favorable action.

No exhibits were shown or discussed. The claims that were discussed were claims 1, 2, 3, and 14. The prior art that was discussed was U.S. Patent No. 5,681,350 to Stovall.

The general thrust of Applicant's argument was that adding the limitation, "free of voids", to each of claims 1, 2, 3, and 14 would differentiate the pending claims from the Stovall reference.

The participants agreed that the above referenced limitation would differentiate the pending claims from the permeable material described in the detailed description of Stovall. However, the Examiner indicated that further limitations to the pending claims further distinguishing that

the material of the pending claims is directed to a horse-shoe type apparatus as opposed to the prosthetic apparatus of Stovall would be useful.

Written Statement Regarding Substance of 5/22/06 Interview per
37 CFR 1.133(b)

Applicant *especially* appreciates the opportunity to discuss the rejection under 35 USC 102(b) for a second time with Examiner Swiatek in the telephone interview that occurred on May 22, 2006, at 12:30 p.m. EST. Those participating in the interview included Examiner Swiatek, Thomas Lebens, and the undersigned. In accordance with the requirements of 37 CFR 1.133(b), Applicant provides the following written statement of the reasons presented at the interview as warranting favorable action.

No exhibits were shown or discussed. The claims that were discussed were claims 1, 2, 3, and 14. The prior art that was discussed was U.S. Patent No. 5,681,350 to Stovall.

The general thrust of Applicant's argument was that adding further limitations to each of claims 1, 2, 3, and 14 directed to material being added to the "bottom of the hoof" would differentiate the pending claims from the Stovall reference.

The Examiner agreed that the pending application is different than that of Stovall in that the pending application is directed to a method of preparing *in situ* a horse-shoe type apparatus whereas Stovall is directed to a prosthetic apparatus. However, the Examiner indicated that further amendments other than those proposed by Applicant may be useful in further distinguishing the two inventions. The

Examiner indicated that language specifying that the pending method is prepared *in situ* to the horse-shoe area (as opposed to being affixed after substantial removal of hoof material, e.g., to a greater extent that needed to clean the hoof in preparation of *in situ* application) as depicted in Figure 1 would be useful.

Claim Rejections - 35 U.S.C. § 102(b)

1. Claims 1-3 and 14 stand rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,681,350 to Stovall.

Each of claims 1-3 and 14 have been amended to specify that the mass coupled to the foot area is free of voids. The mass, free of voids, claimed in the present application is different than the *permeable prosthesis* disclosed by the Stovall patent.

The air and water permeable prosthesis of Stovall "replaces the hoof wall which has been traumatically removed or therapeutically debrided."¹ As one of ordinary skill in the art appreciates, debridement is a surgical procedure performed only on animals significantly affected with hoof disease or trauma. As such, Stovall explains that the prosthesis is permeable for "allowing oxygen and medication to reach the affected structures of the foot."²

Alternatively, the claims in the present application are limited to solid material which is free of voids. The solid, non-permeable mass is used as a prophylactic on the hoof to prevent damage. As such, the solid, non-permeable mass is

¹ See Column 1, lines 5-10 of the '350 patent

² See Column 1, lines 9-11 of the '350 patent

applied to generally healthy hooves as opposed to significantly injured or damaged hooves. Because the solid mass, free of voids, of the present application may be applied to generally healthy hooves, the material is not permeable to allow the passage of air and medicaments.

Claims 1-3 and 14 have been further amended to specify that the mass coupled to the shoe area is limited to the bottom of the hoof. Conversely, the *permeable* mass described and claimed in the Stovall reference relates to "a prosthesis for [a] region of [the] hoof wall which has been removed by accident or design."³

As shown in Figure 1 of the pending application and described at page 11, paragraphs 1 and 2 of the pending application, the shoe area 28 is the semi-circular area of the hoof material at the *bottom* of the animal's foot. As shown in Figure 1, the non-permeable mass is added onto the hoof surface 26.

As one of ordinary skill in the art will appreciate, the terms "shoe area" 26 and "hoof surface" 28 as shown in the figures and described in the specification of the pending application cannot be confused with a hoof wall. This is particularly true where Applicant has amended the pending claims to specify that the mass is added to the area limited to the bottom of the hoof.

Claims 1-3 and 14 have been further amended to specify that the pending method of preparing a horseshoe is performed *in situ*. Although the claims as originally filed included the

³ See column 2, lines 10 and 11 of the Stovall reference

limitation that the horseshoe is prepared *in situ* in the preamble of the claims, Applicant has expressly included the limitation in the body of the claims.

Thus, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(b) be withdrawn because each and every limitation of the Stovall patent is not taught in the pending claims. Specifically, the Stovall patent does not teach the use of a solid mass, free of voids prepared *in situ* to an area limited to the bottom of the hoof.

CONCLUSION

By way of this amendment, Applicant has made a diligent effort to address the rejection and objections raised by the Examiner. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas Lebens at (805)781-2865 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,

SINSHEIMER, SCHIEBELHUT & BAGGETT

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